

By: Ellis

S.B. No. 1200

A BILL TO BE ENTITLED

AN ACT

relating to information held by a governmental body regarding forensic evidence used in the trial of a person sentenced to death if the evidence was tested by a forensic laboratory operated by the police department in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 552.108, Government Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) Notwithstanding Subsection (a) or (b) or other law, information held by or for a governmental body, including a law enforcement agency or prosecutor, is not confidential or otherwise excepted from the requirements of Section 552.021 if the information concerns the investigation or prosecution of a capital offense that has resulted in the imposition of a sentence of death and the request for the information is made only under the following circumstances:

(1) the request is made by an attorney who is representing the person on whom the sentence of death was imposed, or, if the person has already been executed or otherwise died, by an attorney who represented the person in the defense of the case, including representation with regard to an appeal or other post-conviction remedies concerning the conviction or the imposition of the sentence;

(2) the attorney states that the request is made for

1 the purpose of investigating forensic evidence used in or relevant
2 to the trial of the case;

3 (3) the forensic evidence was tested by an employee or
4 independent contractor of a forensic laboratory operated by the
5 police department of a municipality with a population of 1.5
6 million or more; and

7 (4) after the person was convicted of the capital
8 offense, a reasonable basis has arisen on which to question the
9 reliability of evidence tested by the laboratory during the period
10 in which an employee or independent contractor of the laboratory
11 tested, possessed, or testified concerning the evidence.

12 (e) Notwithstanding Subsection (a) or (b) or other law, a
13 governmental body, including a law enforcement agency or
14 prosecutor, shall disclose:

15 (1) its list of cases in which relevant forensic
16 evidence was tested by an employee or independent contractor of a
17 forensic laboratory operated by the police department of a
18 municipality with a population of 1.5 million or more;

19 (2) its list of cases described by Subdivision (1) in
20 which the evidence described by Subdivision (1) has been retested
21 or is scheduled to be retested; and

22 (3) for any case described by Subdivision (2) in which
23 the evidence has been retested:

24 (A) the results of the retesting;

25 (B) the testing protocol used in the retesting;

26 and

27 (C) all reports and notes relating to the

1 retesting.

2 (f) A district court on application of the governmental body
3 may issue an order protecting information that has or will be
4 disclosed under Subsection (d) and imposing terms and conditions on
5 the use of the information consistent with the purpose for which the
6 information was obtained if the information is otherwise
7 confidential under law.

8 SECTION 2. Title 1, Code of Criminal Procedure, is amended
9 by adding Chapter 64A to read as follows:

10 CHAPTER 64A. FORENSIC TESTING IN CAPITAL CASE

11 Art. 64A.01. FORENSIC TESTING OF CERTAIN EVIDENCE AFTER
12 CONVICTION IN CAPITAL CASE. The judge of the court in which a
13 person has been convicted of a capital offense may order forensic
14 retesting of forensic evidence described by Section 552.108(d),
15 Government Code.

16 Art. 64A.02. CONFLICTS. In the event of a conflict between
17 this chapter and Chapter 64, this chapter controls.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2005.